IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 3839 of 2007(F)

AGAINST THE ORDER DATED 22 /11/06 IN IA 1949/06 IN OS.250/2006 of MUNSIFF COURT, KARUNAGAPPALLY

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PETITIONER:

KUNJUMOL @ ALIAMMA,
KIZHAKKE VEETIL, KOLLARA MURI,
VADAKUMTHALA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.VINCENT JOSEPH
SRI.NIDHI BALACHANDRAN

RESPONDENT:

LUCKOSE VARGHESE, KADUVANKAL HOUSE,
KOLLARA MURI, VADAKUMTHALA VILLAGE,
KOLLAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR, J.

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W.P.(C)No.3839 OF 2007

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DATED THIS THE 5th DAY OF FEBRUARY, 2007

JUDGMENT

Petitioner is the plaintiff in O.S.273 of 2006 and defendant in O.S.250 of 2006 on the file of Munsiff Court, Karunagappally. The case of the petitioner is that respondent has no right of way through her property. Respondent contended that he has a right of way by easement of prescription. Petitioner filed three applications, I.A.1949 of 2006, 1950 of 2006 and 1951 of 2006. Under Ext.P11 order, I.A.1949 of 2006 was dismissed. The other applications are pending. This petition is filed under Article 227 of Constitution of India to quash Ext.P11 order and to direct learned Munsiff to receive the CD produced by the petitioner and to keep it in safe custody and also for a direction to learned Munsiff to conduct a local inspection as sought for in I.A.1951 of 2006 and to view the CD as sought for in I.A.1950 of 2006.

2. Learned counsel appearing for petitioner was heard. The contention of the petitioner is that it is not safe for her to keep the CD and therefore the

learned Munsiff should keep the CD in safe custody. Under Ext.P11, learned Munsiff dismissed the application. I do not find any reason to interfere with Ext.P11 order. It is for the petitioner to keep the CD in her safe custody and she is not entitled to contend that it has to be kept in the custody of the court. I.A.1950 of 2006 and 1951 of 2006 are filed for viewing the CD and for conducting a local inspection. Petitioner is not entitled to contend that learned Munsiff has to conduct a local inspection. It is for the learned Munsiff to decide whether local inspection is necessary or not. So also the learned Munsiff cannot be directed to view the CD as that question has to be decided only at the time of recording evidence. In such circumstances, this petition is dismissed.

M.SASIDHARAN NAMBIAR, JUDGE

lgk/-